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CS# 01-53-26

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--MEMORANDUM--

TO: J.M. Lynch, P.E.
State Traffic Engineer

FROM: Eugene A. Smith *EAS*
Senior Deputy Attorney General

DATE: November 7, 1990

SUBJECT: Truck Routes

This is in response to your memorandum of November 1, 1990 concerning truck routes.

The law authorizing the Department of Transportation and municipalities to regulate traffic on the State Highway System in municipalities is not entirely clear. However formal opinions issued by this office, I believe, provide answers to the questions raised in your memorandum. These opinions are as follows:

- 58 NCAG 17 (26 February 1988)
- 47 NCAG 14 (25 July 1977)
- 43 NCAG 309 (22 July 1974)
- 41 NCAG 156 (5 November 1970)

The gist of these opinions is that municipalities may establish truck routes by designating certain streets for trucks and prohibiting them from other municipal streets, including those on the State Highway System. 47 NCAG 14 (1977) Concurring DOT ordinances are not necessary under the statute in order to restrict truck traffic. A concurring ordinance by the Department of Transportation is not authorized except in compliance with G.S. 20-116(h).

Notice of these ordinances are generally provided by the posting of signs on the highway right of way. While municipalities have ordinance making authority, the Department of Transportation retains control over Traffic Control Devices on the State Highway System, and they are subject to the approval of the Department of Transportation. 43 NCAG 309 (1974)

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It is not necessary for the Department to concur in the municipal ordinance in order for it to be valid. However, posting on the State highway right of way, if necessary to enforce the ordinance, is subject to the Department of Transportation's approval.

The cited opinions are attached for your information.

EAS/js

Attachments

TRUCK ROUTES

1. Municipal governments have authority to establish truck routes within their corporate limits. If the proposed truck route is entirely on municipally owned streets, the municipality may establish the truck route without concurrence of the Highway Commission. However, the establishment of such truck routes will require changes in signing for US and NC numbered routes and therefore municipalities should contact the Highway Commission before establishment of truck routes.
2. The Commission has the authority to designate truck routes in any municipality over Highway System Streets as long as they do not conflict with duly adopted ordinances of the city or town.
3. Where a truck route is proposed, either by the State or the municipality, and makes use of both municipally owned and State Highway System streets, concurring ordinances are necessary.